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Attorneys for Defendant
ATAIN SPECIALTY INSURANCE
COMPANY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MORTAR AND PESTLE CORP. d/b/a
OLEA RESTAURANT,

Plaintiff,

v.

ATAIN SPECIALTY INSURANCE
COMPANY a/k/a ATAIN INSURANCE
COMPANY,

Defendant.

Case No. 3:20-cv-03461-MMC

**ATAIN SPECIALTY INSURANCE
COMPANY'S STATEMENT OF RECENT
DECISION IN SUPPORT OF MOTION TO
DISMISS**

[Civ. L.R. 7-3(d)(2)]

**DATE: December 11, 2020
TIME: 9:00 a.m.
CRTRM: 7, 19th Floor**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

Pursuant to Northern District of California Civil Local Rule 7-3(d)(2), and in connection Defendant Atain Specialty Insurance Company's Motion to Dismiss [Dkt. 34-35 and 38-39], Defendant respectfully submits the following relevant judicial opinion published after the date Defendant's reply memorandum was filed with the Court:

1. The recent decision from United States District Court, Central District of California, granting Defendant's Motion to Dismiss in *Robert W. Fountain, Inc. v. Citizens, Ins. Co. of Am.*, 20-cv-05441-CRB, 2020 U.S. Dist. LEXIS 231629 (Dec. 9, 2020) a copy of which is attached hereto as **Exhibit A**. [Granting Citizen's Insurance Company's Motion for Judgment on the

1 Pleadings with prejudice—concluding any amendment would be futile—and holding that the
2 insured’s allegations that it was physically unable to use its premises did not constitute “direct
3 physical loss of or damage to” property as that term is defined by California law and that the
4 exclusion precluding coverage for “loss or damage caused directly or indirectly by ... any virus”
5 precluded coverage for the insured’s claim.].

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7 Dated: December 11, 2020

MOKRI VANIS & JONES, LLP

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9 /s/ GailAnn Y. Stargardter

GailAnn Y. Stargardter
Attorneys for Defendant ATAIN SPECIALTY
INSURANCE COMPANY

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